

CASE OF MARY O'SULLIVAN.

[To accompany bill H. R. No. 726.]

FEBRUARY 6, 1833.

Printed by order of the House of Representatives.

To the honorable the Senate and House of Representatives of the United States in Congress assembled:

The memorial of Mary O'Sullivan, widow and administratrix of John O'Sullivan, deceased,

RESPECTFULLY SHOWETH:

That your memorialist hath a claim upon the United States of considerable amount, and of great importance to herself and family, arising from a heavy and woful wrong done her late husband by an officer or agent of the Government of the United States in a foreign country, acting in his official capacity; which claim she now begs leave to lay before your honorable bodies for examination, and hopes will be decided, not only upon principles of equity, but also with a tender regard towards the unfortunate victims of an evil inflicted, as it were, by the hand of Government itself.

The origin and grounds of this claim are as follows, viz. The husband of your memorialist, the late Captain John O'Sullivan, being a native citizen of the United States, and, by profession, a shipmaster and merchant, made a voyage, in the year eighteen hundred and twenty-two, to different ports on the west side of America, as master and supercargo of a ship called the Canton, of New York, belonging to the mercantile house of Leroy, Bayard & Company—in the cargo of which he was interested; and, in the course of that voyage, he accidentally met, at the port of Guayaquil, a brig or vessel called the Dick, of Baltimore, commanded by Captain George Coggeshall, and owned by Bartolomé Béla, then on board; which vessel being for sale, and well suited for purposes he had in view, he purchased of said Béla, for thirteen thousand seven hundred dollars, in specie, deposited on board the United States' ship Franklin, then along that coast, and drawn for in his favor conditionally; and he took a bill of sale of her, and immediate possession as his own property.

At the time of said purchase, he perceived that the brig had been registered at Baltimore, as owned and commanded by William Furlong, and had been long absent from the United States; but he was assured by the said Béla that he had become the real owner of her in virtue of a bill of sale or power of attorney, or both, from the said Furlong to him, since her departure from the United States; and that he was a naturalized citizen of the United States, and had good right and lawful authority to sell and convey her; of which

facts he (Captain O'Sullivan) was also assured by the said Coggeshall, then captain of her, a respectable citizen of the United States, previously well known to him. But notwithstanding these circumstances, he was induced, by prudential motives, to make his purchase partly conditional and contingent on the future approbation of his friends and agents in New York, Messrs. Leroy, Bayard & Company, of the title thus acquired by him.

Having made the purchase, and obtained possession of the vessel, he caused her to be refitted at Guayaquil, at considerable expense, and despatched her thence, under the command of J. E. Heron, a midshipman of the United States, to Rio Janeiro, and certain intermediate ports, and proceeded himself in the ship he commanded, the *Canton*, by a similar route to the same port, at which they subsequently met, and he there directed her subsequent course. At that port he caused her to be repaired, re-coppered, and put in complete order for a long voyage, at an expense of about eight thousand dollars; and engaged a new master for her, Philip Woodhouse, and a supercargo to transact the business he contemplated, J. S. Smith, junior.

Thus refitted and commanded, with a supercargo on board, he ordered her from Rio Janeiro to Buenos Ayres, to take on board a full cargo of hides, and transport them thence to Cadiz, for the purchase of which hides he had previously advanced the money to a mercantile house in Buenos Ayres; and he proceeded himself in the said ship *Canton*, to Cadiz, with intent to relinquish the command of that vessel there, agreeably to an understanding with her owners, and then to assume the command of his own vessel, the *Dick*, on her arrival there; and, also, for the purpose of making such contracts and arrangements as circumstances permitted for the sale of the cargo of hides expected by the *Dick*, and for the purchase of a valuable cargo at Cadiz, and other places, to be transported in her thence to the west coast of America, (by the way of New York, in order to take out new papers for the vessel in his own name, and to make some additions to the cargo;) which cargo was expected to amount to two hundred thousand dollars.

It was the main object of his purchasing the brig to make a voyage in her to Europe, and to bring back to the west coast of America a large and specially assorted cargo. In order to avail himself, to the utmost, of the knowledge he had acquired of the trade of that coast, of the connexions and ties he had there formed, and of the advantages afforded by his own capital, credit, and skill; and it was the most fair, safe, and splendid enterprise an American shipmaster and merchant could possibly engage in at the time, and under the circumstances existing.

But all these preparations, plans, and prospects, were entirely defeated and blasted through the unwarrantable interference of a public officer of the United States, which took place not long after Captain O'Sullivan left Rio Janeiro for Cadiz.

The *Dick* sailed for Buenos Ayres as ordered, and arrived there about the 31st of May, 1823; and, on the 2d June, while still laying in the outer roads, her register was handed by the captain to John M. Forbes, esquire, the commercial and political agent or representative of the United States at Buenos Ayres, as required by him pursuant to law; and he was requested to give the necessary certificate to enable the brig to enter the port, and discharge the cargo she had on board for consignees at Buenos Ayres; which he at first refused, but afterwards granted, and the brig entered. It was soon discovered by the captain and supercargo, that Mr. Forbes had long before imbibed suspicions of the former conduct and character of the vessel, and her

former owners, and suspected her being then illegally covered property, and that he was much prejudiced against her, and strongly inclined to have her seized and condemned at that place, or sent home for adjudication; wherefore they were induced to make such representations to him, at first, as they thought most expedient to obviate present difficulties; but soon disclosed to him, with perfect candor, every fact and circumstance whereby to judge of the case as it really was, and to satisfy his mind that his suspicions were ill-founded, his information incorrect and erroneous, and his conclusions without reason and without authority. He persisted, notwithstanding, in his misconceptions, and not only refused to return the vessel's register, and let her prosecute her voyage, but absolutely required the master and supercargo to give him a bond, with sufficient sureties, that the vessel should be taken direct to a port in the United States, or else he would deliver her over to the authorities of Buenos Ayres, by whom he could and would have her condemned. With this requisition, the master and supercargo were finally forced to comply, as they were unable to resist the official authority and influence of Mr. Forbes, however erroneously exerted, or to prevail on him to yield to their reasonable proposals, as well as remonstrances; a part of which was, that they would give ample security, approved by himself, that the brig should be delivered in New York, to the proper agents of Government, for adjudication, within a given period; allowing time only to carry the cargo of hides, then purchased and ready to go on board, to Cadiz, first, and proceed direct thence to New York; which proposal was rejected, as well as every other they could make. Having no alternative left, the master and supercargo submitted, and, together with Mr. Stewart, a partner in the mercantile house of Stewart, McCall, & Company, of Buenos Ayres, as surety, entered into bonds to proceed direct with the brig Dick, to the port of New York, and delivered such bonds to the said John M. Forbes; and then actually proceeded direct to New York without the vessel's register, and other papers which were retained by him.

The vessel thus seized and sent home by Mr. Forbes, arrived at New York about the 4th day of September, 1823; and, it is understood from the State Department, that Mr. Forbes' letter to the Secretary of State, containing his charges against the vessel, and enclosing her register, was received about the same time; but, notwithstanding all his representations, and the extraordinary steps he had taken, the vessel was never seized or proceeded against, in any manner whatever, by or on the part of the Government. No notice appears to have been taken of his charges or complaints, and the vessel remained in the port of New York, unmolested and undisturbed by Government. But, after lying there some time, she was libelled for seamen's wages, and a contract of bottomry, and duly decreed to be sold by the marshal of the district of New York. By that time Captain O'Sullivan having received information at Cadiz, of the proceedings at Buenos Ayres respecting his vessel, had returned to New York in quest of her, to vindicate his rights, and seek reparation of his damages. Finding the vessel decreed to be sold, and advertised at auction by the marshal, he became the purchaser, and took a bill of sale for her from the marshal, in his own name; and afterwards obtained a new register for her in his own name, by order of the Secretary or the Comptroller of the Treasury.

He then resumed preparations for the voyage originally intended to be performed with the brig; that is, to go to Europe, and load for the west side of America, although with much diminished funds, and under great disad-

vantages, compared with what he enjoyed before. He accordingly refitted the vessel at great expense, and provided a cargo; but, at the same time, applied to Government for remuneration of the heavy damages he had sustained through the unwarrantable conduct of Mr Forbes. Having not the evidence then at his command to sustain the whole amount of his claim for damages, which he calculated as very large, including all that resulted from the act of Mr. Forbes, but obliged to resort both to Spain and Buenos Ayres for some of that evidence, he concluded to postpone the pursuit of his claim on Government until better prepared, especially as his business then led him to Spain, and thence to the west coast of America, admitting of his stopping at Buenos Ayres, so that he might collect the requisite testimony as he went along. He accordingly proceeded upon that plan: loading his vessel for Gibraltar and Cadiz, and set sail from New York on the of May, 1824; in which voyage your memorialist accompanied him to Gibraltar, and afterwards by land thence to Marseilles. Having unladed his vessel at Cadiz, and reladed her at that place, Gibraltar and Marseilles, with a very valuable cargo, he set sail from Marseilles, where your memorialist remained, on or about the of September, 1824, bound for the west coast of America, with intent to touch at Rio Janeiro, and go by land across the continent by the way of Buenos Ayres, to Valparaiso, while the vessel went round Cape Horn, and rejoin her at Valparaiso.

The separation at Marseilles between your memorialist and her husband, when he embarked upon that voyage, was final, and followed by fatal consequences. He was shipwrecked on the coast of South America, and his life was lost, together with his vessel and cargo. By that stroke of Providence, not only was your memorialist widowed, and her children (six in number) made orphans, but, as it has since proved, all the earnings of his active and enterprising life, both upon land and water, have been at once sacrificed. Not only was all his property thereby sacrificed, but the evidence of what your memorialist now claims and hopes for from your honorable bodies has also been lost, or left in part unobtained. His books and papers, and almost every vestige in writing respecting his affairs, have not been discovered since his death; and from the want of some of them to explain matters, and the claims upon insurers arising out of the catastrophe, have even arisen suspicions for a time affecting his character, which have been removed, however, by later developments.

Thus situated, your memorialist is obliged to present her claim under all the disadvantages resulting from the events and circumstances enumerated. The true amount of damages sustained by her late husband, through the unwarrantable conduct of the commercial and political agent of the United States at Buenos Ayres, cannot be established by proof with any precision; but enough appears by what has been stated herein, (confirmed by the accompanying documents,) to satisfy every candid mind of that amount being *very large*. According to the calculations of her late husband, the damages he had sustained were enormous, which he hoped to establish by the testimony he should collect at Cadiz and Buenos Ayres. According to the proofs adduced by your memorialist, they cannot be less than what the following items amount to, viz

The value of the vessel at the time of the seizure by Mr. Forbes.

The value of the cargo of hides, or at least that part thereof which was sacrificed in consequence of the seizure.

The value of the freight engaged from Buenos Ayres to Cadiz.

The premium of insurance effected on the vessel at New York for the intended voyage.

The expenditures of Captain O'Sullivan while waiting at Cadiz, and returning to New York in pursuit of the vessel.

The interest on these different sums from 1823 until paid.

In regard to the question which may possibly be raised as to the liability of Government for the conduct of its agent, Mr. Forbes, your memorialist has only to observe, that, as she is advised and believes, that point is settled in her favor by numerous precedents, and she confides they will not be departed from in her case; and also, that common equity requires that Government should be responsible for those it employs in the public service, from whom it may take adequate security for its indemnification, while individuals falling in their hands may be ruined by their errors or misconduct, and be without redress; that as they are employed for public good, and not for the sake of particular individuals, the whole public ought to bear the injuries resulting from their acts, as well as enjoy the benefits; and, finally, that if Mr. Forbes was liable, in his private capacity, for the damages sustained through his conduct, he has never been able, in point of funds, to respond for the same, nor has he ever given any security to the Government for his good conduct in office, as your memorialist is informed and believes.

Confiding that your honorable bodies will duly consider her claim, and do full justice to herself and children according to its true merits, your memorialist has the honor to subscribe herself,

Most respectfully,

Your obedient and humble servant,

MARY O'SULLIVAN.

New York, 10th December, 1832.

The United States of America,

To Mary O'Sullivan, executrix of John O'Sullivan, dec'd., Dr.

For damages and losses sustained by the said J. O'Sullivan, through the unwarranted interference of John M. Forbes, esq., as commercial and political agent of the United States at Buenos Ayres, in the year 1823, with the American brig or vessel called the Dick of Baltimore, belonging to the said J. O'Sullivan; by the said agent retaining her register and other papers, and exacting of her master and supercargo a bond, with sureties, that she should proceed from Buenos Ayres direct to N. York, and there be delivered over to the proper authorities of the United States for trial upon charges to be preferred against her by the said agent, which bond was necessarily complied with, and the vessel brought to New York; but no proceedings were ever commenced against her, on the part of the United States, in consequence of such charges, and the vessel was finally sold by the marshal of New York, in virtue of a decree of the district court, obtained for seaman's wages and a bottomry bond given for the expenses arising from her seizure at Buenos Ayres, and being sent from thence to the United States; which damages and losses are estimated as follows, viz.

1st. The value of the vessel and her stores at the time of her seizure by the said agent at Buenos Ayres, and under her engagements of freight, having a full cargo then ready to be transported to Cadiz; not less than \$20,000 00

2d. The value of freight the vessel would have earned in carrying the said cargo to Cadiz, already covered by insurance at New York, not less than	\$5,000 00
3d. The loss on 5,000 hides, purchased for the cargo, and resold at Buenos Ayres in consequence of the voyage to Cadiz being frustrated; about	5,000 00
4th. The loss of insurance effected on the vessel, and freight from Buenos Ayres to Cadiz, by Le Roy, Bayard & Co., for account of the owner,	1,302 50
5th. The expenses and loss of time incurred by the said J. O'Sullivan, while waiting at Cadiz for the vessel's arrival there, and returning to New York in pursuit of her, about	1,250 00
6th. The interest on the amount of the above from 1823 until paid.	

In addition to the above may be estimated, and ought to be considered, though it cannot now be proved with sufficient certainty, in consequence of J. O'Sullivan's death, the enormous losses and damages he sustained, resulting necessarily from the frustration of a voyage so very important as was that of the brig Dick at the time of her seizure, and under the peculiar circumstances existing, having a cargo engaged and paid for to go on board, of near \$50,000 value, and another engaged at Cadiz, of much greater value, to be carried in her from thence to South America; by which frustration it was calculated by J. O'Sullivan, as appears by a statement he delivered to the Government in his life time, that he had been deprived of above \$100,000, besides the above stated amount; and mercantile men would not doubt the strong probability of such a calculation being correct. And, furthermore, may well be considered as a consequence, also, of the act of the agent in frustrating the brig's voyage, the final catastrophe which ensued, of the loss of J. O'Sullivan's life upon her next voyage; and the loss of all he was worth, leaving a widow and six children destitute.

These circumstances cannot but weigh with those who are to judge for the public as to the amount of compensation or redress that ought to be made on the present occasion, and proportioning that redress somewhat according to the probable, as well as certain, injuries sustained.

An Abstract of the Documents relating to the Claim of John O'Sullivan's Executrix.

- No. 1. A copy of John M. Forbes's appointment as agent for commerce and seamen in Buenos Ayres, dated 1st May, 1820; certified by E. L.
- do 2. do J. M. Forbes's despatch, No. 51, to the Secretary of State, dated 22d June, 1823, with three accompanying documents, viz. copy of a public notice signed Somalo; bill of sale from B. Béla to J. O'S; and register of the Dick.
- do 3. do D. Brent's letter to the Comptroller, dated 16th January, 1824.
- do 4. do J. M. Forbes's despatch, No. 52, to the Secretary of State, dated 3d July, 1823.

- No. 5. A copy of letter of Comptroller to the collector of New York,
dated 23d January, 1824.
- do 6. do Collector of New York to the Comptroller, dated 27th
January, 1824.
- do 7. do Memorial of J. O'Sullivan to the Secretary of the Treas-
ury, dated 3d February, 1824.
- do 8. do Letter from the Comptroller to the collector of New
York, dated 9th February, 1824.
- do 9. do Letter from Mr. Van Buren, Secretary of State, to W.
S. Archer, Chn., dated 17th March, 1830.
- do 10. do Extract of a letter from Peter Lasallita to the Secretary
of State, dated 25th October, 1823.
- do 11. do Letter from the Comptroller to W. S. Archer, Chn. &c.,
dated 29th March, 1830.
- do 12. do Letter from C. L. Stewart to W. S. Archer, Chn. &c.,
dated 25th March, 1830.
- do 13. do Letter from E. L. Stewart to Mrs. O'Sullivan, dated
7th April, 1830.
- do 14. do Letter from F. Murrieta to F. H. Harmony, dated 26th
September, 1829.
- do 15. do do do 12th Oct. 1829.
- do 16. Deposition of Philip Woodhouse and John S. Smith, jr., 8th Janu-
ary, 1824.
- do 17. do John S. Smith, jr., 28th Dec. 1832.
- do 18. do George Coggeshall, 14th Dec. 1832.
- do 19. do Michael Hogan, 25th June, 1832.
- do 20. do P. H. Crosby, 28th March, 1832.

No. 1.

UNITED STATES OF AMERICA.—*Department of State.*

To all to whom these presents shall come, greeting:

I certify that the annexed is a true copy of the appointment of John M. Forbes, by the President of the United States, as their agent for commerce and seamen, in the province of Buenos Ayres, or Chili, in South America, faithfully compared with the record in this office.

In testimony whereof, I, Edward Livingston, Secretary of State of the United States, have hereunto subscribed my name, and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this fourth day of April, A. D. 1832, and of the independence of the United States of America the fifty-sixth.

[SEAL.]

EDWARD LIVINGSTON.

UNITED STATES OF AMERICA.—*Department of State.*

To all to whom these presents shall come, greeting:

I certify that John W. Forbes, of Massachusetts, has been appointed by the President of the United States as their agent for commerce and seamen

in the province of Buenos Ayres, or Chili, in South America, to reside at, and execute the trust reposed in him, in whichsoever of these provinces John B. Prevost does not reside in the same character, with all the privileges and authorities thereto of right appertaining.

In testimony whereof, I, John Quincy Adams, Secretary of State of the United States, have hereunto subscribed my name, and caused the seal of the Department of State to be affixed.

Done at the city of Washington, this first day of May, A.D. 1820, and of the independence of the United States of America the forty-fourth.

[SEAL.]

JOHN QUINCY ADAMS.

No. 2.

No. 51.—*Duplicate—Original, per Providence.*

Buenos Ayres, 22d June, 1823.

SIR: Under this date I have addressed (No. 50) a general report by this vessel, "the Providence of Providence." This despatch, which is given into the special care of my friend, M. Monson, esq., a passenger by this ship, has sole and exclusive reference to the case of a brig, Dick, Captain Woodhouse, now here. It seems as if it is ever to fall to my lot to visit, with the severity which honor dictates, those various attempts which unprincipled adventurers are ever making to elude our laws and to degrade our national character and flag. After exposing myself to much odium and hostility in Europe, at a trying moment, by a conflict in protection of our fair commercial rights against the daring and desperate attempts of fraud and collusion, I find myself again here the advanced guard on a similar and equally arduous service. You are fully possessed of all the circumstances of the different examples I have already made since my agency here. Two years ago this brig, Dick, came to Monte Video, and, as was said, was destined to this market, but, hearing of the fate of a brig Catharine, was deterred from that destination, and proceeded to the Pacific. At that time, it was matter of general notoriety and unreserved conversation at Monte Video that this vessel was undoubtedly the property of a Spanish subject, although navigated under the documents and flag of the United States. This fact was stated to me by several of our citizens, who came here from Monte Video at that time. They expressed the most bitter indignation at this abuse of our flag, and a great desire to see it suppressed; but, as the case was out of the circle of my agency, I could not act, although I expressed my regret, with the assurance that I should severely investigate the matter as soon as it came within my influence or authority. From that time until about six weeks since, I had no news of this brig. About six or eight weeks ago, the chief of police, by order of the Government, announced to the public that there were three well armed pirates cruising in the Pacific, and one of these, thus honorably distinguished vessels, was the *brig Dick*. I ascertained that this public notice was given in confidential letters from Lima and Guayaquil to the Government here. It will be difficult to conceive, therefore, my surprise when, under all these circumstances, this long known vessel appeared here about a fortnight since. She came from Rio Janeiro, where she underwent a partial regeneration, as no doubt

the Spanish owner thought, by the appointment of a new captain and supercargo.

As soon as her register was presented to me I found that, by its tenor, it was granted, No. 171, at Baltimore, on the 4th of December, 1819; that William Furlong, of Baltimore, mariner, appeared to be "*only owner*," and also master of said vessel. I found a variety of endorsements on the back of the register, of certificates to changes of masters, but I found no link in a chain of ownership. I found a certificate, of 30th March, 1820, from the captain of the port at Monte Video, that an impediment of the owner and Captain William Furlong made it necessary that Thomas Humphreys should take command of said brig; but this was all I saw of the ostensible owner, and in this he had no participation. This circumstance much tended to confirm the story I had previously heard, that, on a quarrel between Furlong and the real owner, Furlong had been dispossessed of his brig and command without ceremony; that he had followed the brig to Cadiz, where he had denounced the fraud of the case to the consul. (On this point I propose to write to Mr. Hall.) I asked Mr. Smith, the supercargo, for a bill of sale of the vessel, and stated the importance of such a document. He at first said that there was no bill of sale; but when I declared my determination to expose the vessel to seizure, he produced a singular bill of sale, which I also transmit herewith in original. By this document, it most evidently appears on the face of it that Mr. O'Sullivan, the pretended buyer, was so entirely destitute of confidence in the right to sell on the part of the pretended seller, that he would only deposite the money on board the Franklin, to be paid at New York, on this Spaniard proving to the satisfaction of O'Sullivan's agents his right of ownership and power to sell.

Out of delicate regard to the possible contingent interest of citizens of the United States in this property, and a respect to our authorities at home, I have consented that the brig Dick shall proceed direct to New York, under a special passport from me; further restricted by a bond from Mr. Smith, the supercargo, and Captain Woodhouse, with a sufficient surety, that they will faithfully and truly cause her to be conducted to that port, and there delivered over to the collector, the marshal, or other competent legal officer, to abide the decision of the Government or of the courts of the United States. Under all these circumstances, I feel no doubt that my motives will be charitably judged by you; and I think that any court or jury to whom this case may be submitted will find in the enclosed documents, together with the history of the case, ample evidence to induce the seizure and condemnation of the vessel. I hope, sir, that you will agree with me in the opinion that it is of great importance to the due maintenance of the character of our flag that severe examples should be made to put a stop to these nefarious abuses of our documents.

If I had a voice in our national councils, the first law I should propose, would be one to establish new checks on the employ of our public documents.

I have the honor to be, with great respect,

Your most obedient and very humble servant,

J. M. FORBES.

HON. JOHN QUINCY ADAMS,

Secretary of State, Washington.

P. S. Enclosed, I transmit one of the original notices, posted up by the chief director of the police, respecting the piratical character of the brig

Belgrano, the ship Colonel Brown, and the brig Dick. It is over the real signature of the chief director of the police here.

TRANSLATION.—*Documents accompanying Mr. Forbes' letter No. 51.*

PUBLIC NOTICE.

In the South sea have appeared three piratical vessels under Spanish colors. They are the brig of war Belgrano, which mutinied in the Peruvian squadron; the corvette Colonel Brun, (Brown) and brig Dick, both North American. This notice is communicated to you to enable the merchants to regulate their commercial operations with knowledge of this fact.

SOMALO.

BUENOS AYRES, 14th April, 1823.

BUENOS AYRES, 23d June, 1823.

I certify the above to be the original signature of Mr. Somalo, chief director of the police of this city.

J. M. FORBES,
Agent of the U. S. of America.

Know all men by these presents, that I, Bartolomé Béla, citizen of the United States of America, for and in consideration of the sum of thirteen thousand seven hundred Spanish dollars, now on board the United States' ship Franklin, and to be at my expense and risk until their arrival at the United States, and the balance thereafter well and truly paid unto me, the aforesaid Bartolomé Béla, by John O'Sullivan or his agents, Messieurs Le Roy, Bayard, & Co., upon my satisfying said John O'Sullivan, or his aforesaid agent, *that I hold a legal right and title as a citizen of the United States of America to the American brig Dick*: by these presents have granted, bargained, sold, assigned, transferred, and set over, and by these presents do fully and absolutely grant, bargain, sell, assign, transfer, and set over unto the said John O'Sullivan, all that ship, vessel or brig, called the Dick, and now lying within the port of Guayaquil, together with all and singular the masts, sails, standing and running rigging, ropes, cables, anchors, boats, oars, tackle, apparel, furniture, and appurtenances to the said ship, vessel or brig belonging; to have and to hold the said ship, vessel or brig, and all and singular the premises hereinbefore mentioned, and hereby bargained sold, or intended to be so bargained and sold, and every part and parcel thereof, with the appurtenances, unto the said John O'Sullivan, his executors, administrators, and assigns, to and for his and their own proper use and benefit, and as his own proper goods and chattels from henceforth for ever. And I, the said Bartolomé Béla, do, for myself, my heirs, executors, and administrators, and for every of them, covenant, promise, and agree, to and with the said John O'Sullivan, his executors, administrators, and assigns, in manner following, that is to say: that I, the said Bartolomé Béla, at the time of the sealing and delivery thereof, have in myself good right, full power, and lawful and absolute authority, by these presents,

to grant, bargain, sell, assign, transfer, and set over, the said ship, vessel or brig, called Dick, and all and singular other the premises, with the appurtenances, unto the said John O'Sullivan, his executors, administrators, and assigns, in manner and form, and according to the true intent and meaning of these presents And, also, that the said ship, vessel or brig, and premises, hereby bargained and sold, and every part and parcel thereof, with the appurtenances, shall from henceforth for ever after remain, continue, and be unto the said John O'Sullivan, his executors, administrators, and assigns, free and clear, and freely and clearly acquitted, exonerated and discharged, of and from all other bargains, sales, gifts, grants, titles, judgments, debts, charges, and incumbrances, whatsoever.

In witness whereof, I, the said Bartolomé Béla, have hereunto set my hand and seal the twenty-third day of August, one thousand eight-hundred and twenty-two, and of the independence of the United States of America the forty-seventh.

BARTOLOME BELA. [SEAL.]

Sealed and delivered in presence of—

SAMUEL LANG,
WM. JANUARY,
GEORGE COGGESHALL.

GUAYAQUIL, 23^d August, 1822.

Received from Captain John O'Sullivan the sum of one thousand dollars, for all the stores on board said brig Dick.

BORTOLOME BELA. [SEAL.]

Witnesses to the signature of Bortolome Bela—

SAMUEL LANG,
WM. JANUARY,
GEORGE COGGESHALL.

Guayaquil, 23d August, 1822. Received from Captain John O'Sullivan an order on Commodore Charles Stewart for thirteen thousand seven hundred dollars, the same to be forwarded by said Commodore Stewart to Messrs. Le Roy, Bayard & Co., of New York, as per adjoining bill of sale of the American brig Dick.

BARTOLOME BELA.

\$13,700

Witnesses to the signature of Bartolomé Béla—

SAMUEL LANG,
WM. JANUARY,
GEORGE COGGESHALL.

Agency of the United States of America, Buenos Ayres.

BUENOS AYRES, 3d July, 1823.

These are to certify, that the foregoing are true and correct copies of the original contract of sale of brig Dick, transmitted to honorable Secretary of

State by ship Providence, together with several endorsements thereon; the whole carefully collated by me,

J. M. FORBES, [L. S.]
Agent of the United States of America.

No. 171.—*Permanent.*

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," William Furlong, of the city of Baltimore, State of Maryland, mariner, having taken or subscribed the oath required by the said act, and having sworn that he is the only owner of the ship or vessel called the Dick, of Baltimore, whereof William Furlong is at present master, and is a citizen of the United States, as he has sworn, and that the said ship was built in Matthews county, State of Virginia, in the year 1818, as appears by a certificate of registry No. 116, granted at this port, the 26th of August, 1819, now surrendered; the property having been transferred. And said certificate having certified that the said ship or vessel has one deck and two masts, and that her length is ninety feet, her breadth twenty-five feet, her depth ten feet six inches, and that she measures [L. S.] two hundred and seven and $\frac{22}{95}$ tons; that she is sharp built, has a square stern, a round tuck, no galleries, and a billet head. [L. S.] And the said William Furlong having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said brig has been duly registered at the port of Baltimore. Given under our hands and seals, at the port of Baltimore, this 4th day of December, in the year 1819.

Jos. Nourse,
 Register.

J. McCulloch.

Wm. B. Barney, Naval
 Officer.

Por impedimento del dueno y Capitan Gu'mo Furlong, existe el empleo de Capitan de este Buque desde este fecha Tomas Humphrey.

JOSE PEREIRA PINTO,

Capitan de Porto.

MONTE VIDEO, 30 Marzo y, 1820.

AMERICAN CONSULATE,

Cadiz, June 2, 1821.

Captain Cornelius Waggoner has taken the command of the within named vessel, instead of Captain Thomas Humphreys, under oath, according to law.

[L. S.]

J. W. HALL, *Consul.*

LIMA, June 12, 1822.

I do hereby certify, that I took charge of the American brig Dick, at this port, under this date, and that there were neither an American consul or

commercial agent to certify to the same. I further certify that I have continued the command until the 20th of August, 1822, at Guayaquil.

GEORGE COGGESHALL.

DOLPHIN, PORT OF GUAYAQUIL,

September 17, 1822.

I hereby certify that John E. Heron has taken command of the Dick, and also, that George Coggeshall is a citizen of the United States, and commanded the Dick as above specified.

D. CONNOR,

Commanding U. S. Sch'r Dolphin.

CONSULATE OF THE U. S. OF AMERICA,

Rio de Janeiro.

Before me, Condý Raguet, esquire, consul of the United States of America for the port of Rio de Janeiro, personally appeared John E. Heron, master of the brig Dick of Baltimore, now lying at this port, who voluntarily resigns the charge and command of said vessel to Philip Woodhouse. And said Philip Woodhouse being also now present, and having taken the oath prescribed by law, that he is a native citizen of the United States, takes the charge and command of said brig Dick.

In testimony whereof, I have hereunto affixed my hand and seal of office, on the 7th of March, A. D. 1823.

CONDY RAGUET, *Consul.*

JOHN E. HERON,
PHILIP WOODHOUSE.

AGENCY OF THE U. S. OF AMERICA,

Buenos Ayres, July 3, 1823.

These are to certify that the foregoing are true and faithful copies of the original register of brig Dick, transmitted by the ship Providence, to honorable Secretary of State, together with the several endorsements on said Register, the whole carefully collated by me.

[L. s.]

J. M. FORBES,

Agent of the U. S. of America.

No. 3.

DEPARTMENT OF STATE,

Washington, 16th January, 1824.

SIR: I have the honor to transmit to you, herewith, by direction of the Secretary, a despatch, No. 51, dated 22d June, 1823, from Mr. John M. Forbes, the agent of the United States at Buenos Ayres, to this department, with its enclosures, in the case of the brig Dick, Captain Woodhouse,

then at Buenos Ayres. As this despatch, and the papers, relate exclusively to a subject which is under the direction and superintendence of the Treasury Department, the Secretary has directed them to be thus disposed of.

I am, with great respect,

Sir, your obedient servant,

DANIEL BRENT.

JOSEPH ANDERSON, Esq.

First Comptroller of the Treasury.

No. 4.

(No. 52.)

BUENOS AYRES, 3d July, 1823.

SIR: My last despatch contains a very detailed account of the circumstances of the case of the brig Dick, accompanied by the very defective and extraordinary documents on which I determined to withdraw from her the said documents, and to compel the parties representing the property, by various restrictions, to proceed to New York, and there to submit either to the order of the Executive at Washington, or to the decision of a judicial tribunal competent to investigate the case. My said despatch went by a very fine ship, called the Providence, bound to Providence. This goes by the Dick herself, and is concealed under cover of a letter to my brother, at New York, to prevent its being destroyed by the captain, or operating to induce a capture by cruisers.

I shall send duplicates of all the papers by a brig, Clio, to sail for Philadelphia in ten days. By this vessel, and in the same disguise, I write a line to the District Attorney at New York, to awaken his vigilance, that he may delay the new register and clearance of this vessel until the documents, with your instructions, shall reach him.

The Dick has long been known in this river as Spanish property, under our colors; and one of the documents forwarded shows that Captain O'Sullivan, the pretended purchaser in the Pacific, felt somewhat more than a doubt as to the real ownership of the seller, inasmuch as he only deposited the purchase money on board the Franklin, to be paid at New York, after the pretended owner should have proved to the satisfaction of O'Sullivan's agents his title and right to sell. I cannot enlarge, but merely mean to call your attention to the case, in failure of the arrival of my documents.

I have the honor to be,

With great respect,

Your very obedient servant,

J. M. FORBES.

Hon. JOHN QUINCY ADAMS,

Secretary of State, Washington.

No. 5.

TREASURY DEPARTMENT,

Comptroller's Office, 23d January, 1824.

SIR: Application has been made to this department, by Mr. Key, of Georgetown, in the District of Columbia, in behalf of Mr. John O'Sullivan, for a register for the brig Dick.

It is represented that instructions had been given to you not to grant a new register for that vessel, of which fact I have no recollection; and upon referring to the records of this department, I do not find any communication to you on the subject of that vessel. If any was made, the original draught must have been mislaid by the copying or recording clerk in whose hands it must have been placed to be recorded.

The Department of State, a few days ago, transmitted to this department the register of that vessel, granted at Baltimore, in the name of Wm. Furlong, which register was retained, and the vessel ordered to New York, by Mr. Forbes, agent of the United States at Buenos Ayres, on the ground that she had been engaged in piratical acts; and that the register, although issued in the name of Wm. Furlong, an American citizen, yet the property, in fact, belonged to foreigners, of which fraud Mr. Furlong notified the consul of the United States at Cadiz.

It is now alleged that, after the arrival of this vessel at New York, she was libelled and sold for the seamen's wages, and it is under this sale, I understand, that the purchaser urges his claim to a register, there being no bill of sale from Wm. Furlong, the American citizen, who covered her as American, when she was, in fact, foreign property, at the time of obtaining a register for her at Baltimore.

I have now to request that you will have the goodness to furnish me, as early as practicable, with all the information in your possession in relation to that vessel, particularly as to the sale alleged to have been made at New York.

If any instructions have been given to you by any department of Government on the subject of the vessel alluded to, be pleased to furnish me with a copy thereof.

Respectfully,

JOS. ANDERSON, *Comptroller.*

JONATHAN THOMPSON, Esq.
Collector, New York.

No. 6.

CUSTOM-HOUSE, NEW YORK,

Collector's Office, January 27, 1824.

SIR: I have received your letter of the 23d instant, relative to an application in behalf of Mr. John O'Sullivan for a register for the brig Dick. This vessel entered at this office on the 4th September, 1823, from Buenos Ayres, without the necessary legal papers showing her to be an American vessel. I have obtained some papers and letters from the district attorney, which I herewith transmit; also transmit a copy of her register, and a bottomry bond.

From the information obtained from the clerk of the United States' District Court, it appears that the vessel has been libelled and sold for a sum exceeding three thousand dollars, by the marshal, on the bottomry bond, and for the wages of the seamen; and that Mr. O'Sullivan had, by petition to the court, claimed the balance as due him for repairs, exceeding five

thousand dollars, made by him to the vessel when in South America. The papers herewith please return.

Am respectfully, your obedient servant,

JONATHAN THOMPSON, *Collector*.

Hon. JOSEPH ANDERSON,

Comptroller.

No: 7.

To the honorable the Secretary of the Treasury of the United States:

The memorial of John O'Sullivan respectfully sheweth:

That he is the owner of the brig Dick, an American vessel, built in Baltimore in the year 1819, having purchased the said vessel of Bartholomew Bela, a citizen of the United States, at the port of Guayaquil, who was in possession and claimed to be the owner of said vessel; and this memorialist, though he had fears as to such ownership at the time of his said purchase, and therefore deposited the purchase money with Captain Stewart, on board the U. S. ship Franklin, to be paid in New York, on the said Bela's then satisfactorily proving his said ownership; hath been since assured and satisfied that the said Bela will obtain from Captain Furlong a power of attorney authorizing him to make good the sale of said vessel, and was the bona fide owner of said vessel.

That he made the purchase of the vessel aforesaid some time in September, 1822. That, after said purchase, he sent the said vessel to Buenos Ayres for a cargo of hides to be transported to Cadiz, intending thence to send the said vessel, with a cargo which he had purchased and prepared for her in Cadiz, to the port of New York. That, while the said vessel was lying at Buenos Ayres, and ready to receive her said cargo, which was already purchased, she was seized at that port, upon the most unfounded suspicions, by John M. Forbes, agent of the United States, and ordered in ballast to New York, as appears by the accompanying depositions of the master and supercargo of said vessel, the said Forbes retaining and sending in to the honorable Secretary of State the register of said vessel, and the bill of sale of your memorialist therefor, with a statement of his causes of suspicion against the said vessel.

That, after the arrival of said vessel at New York, she was libelled for seamen's wages, and on a contract of bottomry, and duly decreed to be sold by the marshal of that district. That, at the said sale, your memorialist attended and purchased the said vessel, upon the assurance of said marshal that the purchaser, if a citizen of the United States, would be entitled to a new register for the said vessel; and that, since the said sale, he hath expended a large sum of money in repairing and refitting the said vessel. That, upon his late application to the collector of the port of New York, he hath been refused a register or any other document for the said vessel, and now understands that the ground of this refusal is an allegation that the said vessel was originally owned by a foreigner, and covered fraudulently by a pretended ownership in Captain Furlong, to whom the register was granted. Your memorialist doth not admit the truth of this allegation, and avers that if it be so, he is utterly ignorant of such fact, and was never apprised, at the time of his purchase or before, of any such circumstance, and now knows no

thing upon the subject, except what he has heard is stated in the communications from John Forbes and the vice consul in Cadiz in relation thereto. As to the charge of piracy in relation to said vessel, he is prepared to show that the same is utterly destitute of any foundation; and also that he is an American citizen, and the bona fide purchaser of said vessel in the manner herein before stated.

Your memorialist begs leave to suggest, that, if it should be conceived that this vessel, by reason of the alleged foreign ownership, hath incurred any legal disabilities, of which your memorialist was both ignorant and innocent, yet it would, as he hopes, be within the powers of your department of the Government to remove such disabilities, and prevent them from affecting a fair subsequent purchaser, to whom no censure can be imputed: and more particularly does he conceive himself entitled to such indulgence, if such disabilities are considered incurred, from the circumstance of his having purchased the said vessel at the sale of the marshal of New York, under the most positive assurance from that office that a new register would be obtained for the said vessel. He has therefore applied to this department, and prays that his case may be considered, and such relief extended to him as the laws may allow; and that the collector of the port of New York may be directed to grant to the said vessel a register or sea letter, or such document as the law may permit in such cases, for the protection of the said vessel as the property of an American citizen.

JOHN O'SULLIVAN.

WASHINGTON, 3d February, 1824.

TREASURY DEPARTMENT,

Comptroller's Office, February 9, 1824.

SIR: I have received your letter of the 27th ultimo, in answer to mine of the 23d, respecting the case of the brig Dick. Since then a petition has been presented by Mr. John O'Sullivan to the Secretary of the Treasury, praying that a register may be granted to him, as the present owner of this vessel; which petition has been referred to me.

Upon examination of the petition and other papers presented in this case, it appears that the brig Dick was last registered in Baltimore, in the name of William Furlong, and made a voyage to South America, where she was purchased by Mr. O'Sullivan, the petitioner, from a man by the name of Bartolomé Béla, in whose possession the vessel then was, and who said he had authority to sell her; but did not produce any power of attorney at the time, but said he would procure one; that Mr. O'Sullivan, not being entirely satisfied with this assurance, declined paying the money which he had agreed to give for the vessel, and, by consent of the parties, the vessel was delivered to Mr. O'Sullivan, and the money was placed in the hands of Commodore Stewart, to await the confirmation of the title by Béla. After the purchase, thus made, Mr. O'Sullivan sent the vessel to Buenos Ayres for the purpose of taking in a cargo of hides, to be conveyed to Cadiz or Gibraltar, where a return cargo for New York was in readiness for the vessel; but, on her arrival at Buenos Ayres, the register of the vessel, which had been given by the collector at Baltimore, was detained by Mr. Forbes, the agent of the United States, and the master compelled to give bond that

the vessel would proceed directly to New York, where, it is understood, she arrived in September last. The reasons alleged by Mr. Forbes for depriving the vessel of her register in the manner stated, are, that she was suspected to have been engaged in piratical acts; and, although sailing under the United States' flag, was the property of foreigners; but in support of either of the allegations, thus made, no testimony whatever is adduced; and by the testimony of several persons who appear to have been on board the vessel from the time she left Baltimore until their depositions were taken before the United States' consul at Cadiz, forwarded to this office, it appears that they all declare Captain Furlong to be the owner of the brig Dick. The mere allegations, therefore, which have been made by Mr. Forbes are not deemed sufficient to justify this department in withholding from Mr. O'Sullivan any paper, respecting the brig Dick, to which he may be legally entitled. It is proper, however, to remark, that the bill of sale which Mr. O'Sullivan obtained from Bartolomé Béla for the brig Dick, is not such as to entitle him to a register; his title to such paper, or any other, must, therefore, rest upon the sale made by the marshal of the brig Dick, at New York.

According to the statement in your letter, and the documents which accompany it, this vessel, after her arrival at New York, was libelled and sold under a bottomry bond, and for seamen's wages; at which sale Mr. O'Sullivan became the purchaser.

Upon full consideration of all the circumstances in this case, it is considered that Mr. O'Sullivan is entitled to a register for the brig Dick, which may be granted accordingly, upon his surrendering the old register, and producing to you a regular bill of sale from the marshal.

I have consulted the Secretary of the Treasury upon this case, and he accords in the opinion now communicated.

Agreeably to your request, the documents forwarded by you are returned herewith.

Respectfully,

JOS. ANDERSON, *Comptroller*.

JONATHAN THOMPSON, Esq.

No. 9.

DEPARTMENT OF STATE,

Washington, 17th March, 1830.

SIR: I have received your letter of the — instant, submitting the petition of Mary O'Sullivan, and calling, by direction of the Committee on Foreign Affairs of the House of Representatives, for such information as this department may be enabled to furnish in illustration of her application; and have the honor herewith to communicate copies of two letters from John M. Forbes, formerly commercial agent of the United States at Buenos Ayres, under dates the 22d June and 3d July, 1823, and of their enclosures.

I communicate, likewise, an extract of a letter from Mr. Peter Lassaletta, consular agent of the United States at Cadiz, to this department, in relation to the caution, which Mr. Forbes states in one of his communications above mentioned, he was about to give, (and which it appears he did give,) to Mr. Hall, consul at that place, concerning the brig Dick, in which he refers to a document enclosed, with which it is deemed unnecessary to trouble the committee, establishing the fact of that vessel's being American, and the property of a citizen of the United States in 1821.

With regard to the application alleged, in the memorial, to have been made by John O'Sullivan to this department for permission to obtain a new register for the brig Dick, and to certain papers accompanying it, it does not appear, from the records and files in this office, that any such application was ever received, or any order or permission given, in relation to this subject, which exclusively belongs to the Treasury Department, to which the committee is respectfully referred for further information.

Mrs. O'Sullivan's memorial and accompanying papers are herewith returned.

I am, sir, with great respect,

Your obedient servant,

M. VAN BUREN.

W. S. ARCHER, Esq. *Chairman of the Committee
on Foreign Affairs of the House of Representatives.*

No. 10.

Extract of a letter from Peter Lassaletta, United States' Vice Consul at Cadiz, to John Quincy Adams, dated

CADIZ, 25th October, 1823.

The commercial agent of Buenos Ayres addressed a letter to Mr. Hall, under date of 9th July, wishing him to send your honor a report of what happened here with the brig Dick, as he had sent her to New York to be tried there in consequence of denunciation of her being Spanish property.

In compliance of the above, as I opened the letter as addressed to a partner of mine, I have the honor to enclose a certified copy of the things which exist in this register regarding said brig; by which your honor will perceive that Mr. Hall, the late consul, was put in a very unpleasant situation, and that he acted in every thing according to justice: and, for further information, I shall add that the brig Dick arrived at this bay in 13th March, 1821; that her register was No. 171, of Baltimore, 4th December, 1819, of 207 $\frac{2}{3}$ tons, owned by William Furlong; that her roll of equipage was in perfect order likewise; and that, consequently, Mr. Hall could not suspect any thing. The supercargo was a Genoese, and not a Spaniard, as he is reported to be.

After the denunciation from Mr. Furlong, she has not come into this port; consequently his wishes have not been complied with.

No. 11.

TREASURY DEPARTMENT,

Comptroller's Office, March 29th, 1830.

SIR: The Secretary of the Treasury has referred to me your letter to him of the 24th instant, in which you request, in behalf of the Committee on Foreign Affairs of the House of Representatives, certain information respecting a vessel called the Dick.

It is represented that Mr. Forbes, the consular agent of the United States at Buenos Ayres, some time in the year 1823, detained and sent from that place to New York the vessel in question, which had been taken under

suspicion of having assumed the character of being a vessel of the United States, without being authorized to do so; that early information of this proceeding was given by him to the Department of State, and yet no legal proceedings were adopted on behalf of the United States against the vessel, which, after lying some time in the port of New York, appears to have been libelled for seamen's wages and sold.

The committee now request information in relation to the omission to institute a prosecution against this vessel; whether a new register for her was not asked for, after the failure to subject her to prosecution; whether the same was granted or refused, and if refused, on what ground.

With a view of affording all the information in the possession of this department, in relation to the vessel in question, I enclose, herewith, copies of the following correspondence, viz.

- No. 1. Copy of Mr. Forbes's letter to the Secretary of State, dated at Buenos Ayres, the 22d June, 1823.
- No. 2. Copy of the letter of Daniel Brent, chief clerk in the Department of State, dated the 16th January, 1824, enclosing to me the preceding letter of Mr. Forbes, with the documents alluded to therein.
- No. 3. Copy of my letter to Collector Thompson, dated the 23d January, 1824.
- No. 4. Copy of his answer, dated the 27th January, 1824.
- No. 5. Copy of my answer, dated the 9th February, 1824.
- No. 6. Copy of a bill of sale from Bart. Béla to John O'Sullivan.

From these copies, it will be perceived that the first information received by this department, respecting this vessel, was dated the 16th January, 1824, previously to which she had been libelled and sold for seamen's wages; and that the collector at New York was ultimately authorized to issue a new register for her.

I have the honor to be,

With great respect,

Your obedient servant,

J. ANDERSON, *Comptroller*.

Honorable WM. S. ARCHER.

No. 12.

WASHINGTON, *March 25, 1830.*

SIR: I have the honor to reply to your note of yesterday, asking information relative to a brig called the "Dick," (under the command of Capt. Jno. O'Sullivan,) for the information of the Committee on Foreign Relations.

The money deposited with me for the payment of that vessel by Captain O'Sullivan, was remitted by his orders to Messrs. Le Roy, Bayard, and Co., at New York, by a bill drawn on the Secretary of the Navy, by Mr. Hogan, at Valparaiso, and purchased of him for that purpose. The papers relating to that transaction is now at my farm, near Bordentown, New Jersey, which

would fully satisfy the committee, with respect to that vessel, if it were in my power to proceed, by an order of the Secretary of the Navy, to New Jersey, for them to lay before the committee.

I have the honor to be,

Very respectfully, sir,

Your most obedient servant,

CHS. STEWART.

The Hon. WILLIAM S. ARCHER, &c. &c.,
House of Representatives.

No. 13.

April 7, 1830.

DEAR MADAM: I had, previous to receiving your letter, communicated to Mr. Archer, the chairman of the Committee on Foreign Relations, all the facts within my knowledge relative to the brig Dick, on which your claim for justice is grounded; and I offered to proceed immediately (if they would obtain the consent of the Secretary of the Navy to excuse me from the court-martial then sitting) to Bordentown, and furnish them with all the evidence (documentary) in my possession, which would fully establish the title of your husband, and the American character of the vessel: but this he seemed unwilling to do, and considered not necessary, but observed that, when the committee met on the subject the following Tuesday, he would send for me. I, however, have not since heard from them. I did not receive your note of the 6th in time to attend, which it wished, and I am not yet apprised that they will want me.

I remain, very respectfully,

Your most obedient servant,

CHS. STEWART.

P. S. I have inquired at several boarding houses for you, but have not been able to learn where you reside, or I should have taken an opportunity to have called on you; which, should it be your wish, I will do when you may desire.

C. S.

To Mrs. O'SULLIVAN.

No. 14.

[TRANSLATION.]

CADIZ, *September 26, 1829.*

SIR: I have noted the contents of your letter, and, in answer, beg to say that I am ready to deliver all the papers relative to the damages, &c. suffered by the loss of the brig Dick, at Buenos Ayres, and also to put them in whatever state they may be required to have full force and power in the courts of the United States, on condition that I receive for said service a stipulated sum in ready cash, or that the amount be paid to me in a specified time. The offer made to me by the widow O'Sullivan is very unsatisfactory, both from the distance there is between us, and the little knowledge I have of the customs of the country where the cause is to be brought forward. These

are sufficient reasons for my declining to accept it. If, therefore, the person in Gibraltar, encharged with his business, has sufficient authority, I am ready forthwith to treat with him.

I am, sir, your obedient servant,

FRANCISCO LUCIANO DE MURRIETA.

F. H. HARMONY, Esq. *Cadiz*.

No. 15.

[TRANSLATION.]

CADIZ, *October 12, 1829.*

DEAR SIR: By your esteemed, of 10th instant, I perceive that neither yourself nor the person in Gibraltar encharged to solicit the papers to prove the damages sustained by the Dick, can make me any other offer than that of Mrs. O'Sullivan's, and I will acknowledge to you, sir, frankly, that if the business was one between you and myself, I should, at once, accede to it, but being with a person who is unknown to me, &c. &c. &c., I must decline it.

I remain, &c.

FRANCISCO LUCIANO DE MURRIETA.

FRANCIS H. HARMONY, Esq. *Cadiz*.

No. 16.

UNITED STATES OF AMERICA, *State of New York, ss.*

By this public instrument, be it known, to all to whom the same doth or may concern, that I, Charles White, jr., a public notary in and for the State of New York, by letters patent under the great seal of the said State, duly commissioned and sworn; and in and by the said letters patent, invested "with full power and authority to attest deeds, wills, testaments, codicils, agreements, and other instruments in writing, and to administer any oath or oaths to any person or persons," do hereby certify, that on the day of the date hereof, before me personally came and appeared Philip Woodhouse and John S. Smith, junior, to me known to be the persons described in, and who have signed the annexed deposition, who, being by me duly sworn on the Holy Evangelists of Almighty God, did depose and say that the contents of the said deposition are true.

In testimony whereof, I, the said notary, have subscribed these presents, and I have hereunto affixed my seal of office, the eighth day of January, in the year one thousand eight hundred and twenty-four, and of the independence of the United States the forty-eighth.

C. WHITE, Jr., *Pub. Not'y.*

UNITED STATES OF AMERICA, *City, County, and State of New York, ss.*

Philip Woodhouse, master, and John S. Smith, junior, supercargo, of the brig Dick, now lying in the port of New York, and lately arrived from the

port of Buenos Ayres, being severally sworn, do depose and say, that on or about the thirty-first day of May, in the year of our Lord one thousand eight hundred and twenty-three, they arrived at the port of Buenos Ayres, aforesaid, in the said brig Dick, intending (according to their instructions from John O'Sullivan, by whom they were employed in the above capacities,) to take in a cargo of hides there, and to proceed with the same to Cadiz, and from thence to the port of New York. That, on or about the second day of June, in the said year, while the said brig was still lying in the outer roads of Buenos Ayres, the register of the said brig Dick was handed by this deponent, Philip Woodhouse, to John M. Forbes, esquire, the agent of the United States of America residing at Buenos Ayres aforesaid, and he was requested to give the necessary certificate to enable the said brig to enter the port and discharge the cargo she had on freight for consignees at Buenos Ayres. That he at first refused to give such certificate, but subsequently granted it, and the said brig was allowed to enter the said port. And these deponents further say, that the said John M. Forbes retained the register of the said brig Dick, which had been handed to him as aforesaid, and refused to return the same to these deponents, or either of them. That he was informed by these deponents of the nature of the said brig's intended voyage to Cadiz, and from thence to New York, and requested by them to allow the said brig to proceed on the same, which he refused. That he required these deponents to give bonds that the said brig should be taken direct to a port in the United States, or else, he stated, that he would deliver her over to the competent authorities of the province of Buenos Ayres, by whom he could have her condemned. That these deponents, both individually and jointly, offered to give him good security for the faithful performance of the said brig's contemplated voyage to Cadiz, and from thence to New York, if he would permit her to proceed on the same, but he refused such offer. That, finding it to be impossible to proceed on the said voyage, or to alter the determination of the said John M. Forbes, these deponents chose the port of New York, being the ultimate destination of the said brig, if she had been permitted to proceed on her intended voyage. That these deponents asked permission from the said John M. Forbes to touch at Rio de Janeiro with the said brig, on her way to New York, but he refused to grant the same. That, having no alternative left, these deponents, together with Mr. Stewart, a partner in the mercantile firm of Stewart, McCall, & Co., of Buenos Ayres, entered into bonds to proceed direct with the said brig Dick to the port of New York, and gave such bonds to the said John M. Forbes. That, owing to the abovementioned conduct of the said John M. Forbes in relation to the said brig Dick at Buenos Ayres, these deponents were unable to procure any freight for her from that port to New York, and that, about the seventh day of July, in the said year, they left the said port of Buenos Ayres with the said brig, and arrived in the port of New York about the fourth day of September last. And these deponents further say, that they have understood and believe that the said John M. Forbes has sent the register of the said brig Dick, which he retained as above mentioned, to the Secretary of State for the United States.

P. WOODHOUSE,
JNO. S. SMITH, Jr.

Sworn before me, this eighth day of January, 1824.

C. WHITE, Jr., *Pub. Not'y.*

No. 17.

STATE OF NEW YORK,
City and County of New York, } ss.

John S. Smith, jun., of the city of New York, being duly sworn, doth depose and say, that he, this deponent, was, in the year eighteen hundred and twenty-three, in the employment of John O'Sullivan, esquire, late deceased, and supercargo of the American brig Dick, in her voyage from Rio Janeiro to Buenos Ayres, and at the time the said brig was arrested and sent to New York by John M. Forbes, esquire, the United States' commercial agent at said Buenos Ayres; that said brig's voyage to Buenos Ayres was made for the purpose of taking on board a large cargo of hides at that place, to be transported to Spain. That five thousand hides were actually purchased by the firm of Cotera Murietta and Co., or their agent at Buenos Ayres, for said O'Sullivan, and held in readiness for said vessel, and would doubtless have been carried by her to Spain, had her voyage thither not been frustrated by the act of said Forbes, the value of which must have been rising twenty-five thousand dollars; that the loss upon the resale of said hides was, as this deponent has every reason to believe, upwards of five thousand dollars; that said brig would have carried fifty thousand dollars worth, or nine thousand hides and upwards; that the said Cotera Murietta and Co., as this deponent is informed and believes, had actually prepared funds on board the French frigate *Clorinde*, which was at that time expected at Rio Janeiro, for the purpose of purchasing the additional cargo for said brig; that said funds amounted to sixty thousand dollars and upwards, and that the bills of lading for the same were forwarded, under cover, to a Spanish house at Buenos Ayres, to be held at the disposal of the agent of said Cotera Murietta and Co., at that place; that said Cotera Murietta and Co. were said to have been largely indebted to said O'Sullivan, and that the loss upon the hides that were actually purchased, as well as the damage arising from the non-fulfilment of the contract on the part of said O'Sullivan, in receiving the residue of the cargo, which the aforesaid funds were intended to purchase, was charged by the said Cotera Murietta and Co. to said O'Sullivan in account current; that said O'Sullivan's loss was also enhanced by reason of the freight of the vessel; that the said vessel being turned out of her course and sent home in ballast, her freight to Cadiz, as well as to New York, was totally lost; that the value of said freight alone must have been at least five thousand dollars.

And this deponent further saith that said O'Sullivan always considered his loss much more considerable than any calculations of this deponent can be expected to make it; and, also, that, by the arrest of his vessel he lost all opportunity of recovering a large debt due him from the said firm of Cotera Murietta and Co., to the amount of seventy-five thousand dollars and upwards, as he stated to this deponent, of which sum of 75,000 dollars, the whole cargo of the *Dick* would have been on account. And this deponent further saith that he is informed, and believes, that there was a very valuable cargo of Spanish goods prepared by said O'Sullivan, who was at Cadiz, in anticipation of the arrival of said brig at that place from Buenos Ayres, which cargo was also resold, as this deponent is informed and believes, at a considerable sacrifice to said O'Sullivan.

And this deponent further saith that the outfits and repairs of the brig *Dick*, at Rio Janeiro, to enable her to go on her contemplated voyage to Cadiz, were about five thousand milreas, or upwards, equal to five thousand

dollars or upwards, at the rate of exchange of that period, and that the expenses of the brig at Buenos Ayres amounted to thirteen hundred and seventy-three $\frac{1}{10}$ dollars, and that the only freight that was earned was from Rio Janeiro to Buenos Ayres, amounting to six hundred and eighty-five $\frac{1}{10}$ dollars. And further this deponent saith not.

JNO. S. SMITH, JR.

Sworn to before me this twenty-eight day of December, 1832.

SAM. R. BETTS,

Judge of the United States for the Southern District of New York.

No. 18.

City and county of New York, ss.

George Coggeshall being duly sworn, deposeth as follows, viz.

That he is a native citizen of the United States, born in the State of Connecticut, where he now resides; formerly residing in the city of New York, and then by profession a shipmaster and merchant.

That, in the latter part of the year 1821, he was master and part owner of a schooner or vessel called the Sea Serpent, of New York, and Peter Harmony, merchant, of New York, owner of the remainder of her; in which vessel he sailed as master and supercargo upon a voyage from New York to Callao, the port of Lima, in Peru, with a cargo on board shipped by the said Peter Harmony and Bartolomé Béla, and himself, on joint account; the said Béla having a share therein to the amount of about five thousand dollars, and being known to this deponent to be a naturalized citizen of the United States.

That the said Béla went along in said vessel, upon said voyage, as passenger; and, upon arrival at Callao, the cargo and vessel were sold by this deponent, and that part of the proceeds of the cargo coming to the said Béla was there paid to him by this deponent.

That, soon after their arrival at Callao, the brig Dick, formerly of Baltimore, also arrived there from Gibraltar or Cadiz; which brig, as this deponent had been informed before he left New York, and since, did belong to said Béla, and to meet which and take charge and dispose of her, was one of his chief objects in going along with this deponent; and the said Béla did then and there take possession of the said brig, and engaged this deponent, after the sale of his vessel, to take charge of her, as master, upon a voyage from thence to Guayaquil; which voyage was performed, the said Béla going as owner and supercargo.

That, upon arrival at Guayaquil, or soon after, they met there the ship Canton, of New York, commanded by Captain John O'Sullivan, previously known to this deponent, who applied to said Béla for the purchase of said brig Dick, and made a bargain with him for the same at the rate of thirteen thousand seven hundred dollars; this deponent assisting said Béla in the negotiation, and witnessing the execution of the writings relating to said sale.

That the said Béla was then in possession of the register of said brig, issued at Baltimore, to William Furlong, as master and owner thereof, at the time of her last departure from thence, which he delivered to the said O'Sullivan; and also of a bill of sale or power of attorney, or both, from the said Furlong to him, executed since her last departure from the United States,

authorizing him to hold and to dispose of her; which papers were also shown, and, as this deponent believes, were delivered to said O'Sullivan. And the said Béla did then and there, in the presence of this deponent and others, execute a bill of sale of said brig to and in favor of the said O'Sullivan, and deliver her over to him.

That the said O'Sullivan then employed J. E. Heron, a midshipman of the United States' schooner Dolphin, to take charge of the brig Dick, as master, and despatched her upon a voyage thence to Rio Janeiro or Buenos Ayres, and certain intermediate ports, with intent to send her on to Europe, as this deponent was informed and believes.

That the said brig Dick was never employed in any unlawful trade or enterprise, or piracy, while owned by the said Béla, or the said O'Sullivan, or any one else, as far as this deponent has heard, or been informed, or believes, and certainly was not so employed while commanded by himself; and that if any improper use had ever been made of the vessel, by those who owned or navigated her previous to the purchase of her by the said O'Sullivan, it was utterly unknown to him, O'Sullivan, as this deponent fully believes.

That this deponent, soon after the sale of the vessel, returned to the United States; and in the course of the following year went from New York to Cadiz, where he met with the said O'Sullivan, waiting the arrival there of the said brig Dick, with a cargo of hides from Buenos Ayres; which cargo, he informed this deponent, he had purchased there, or furnished the funds for purchasing there, and had contracted for at Cadiz, since his arrival there, at a large profit; and he also informed this deponent that he was under contract for carrying a valuable cargo (wherein he should be interested) in said brig thence to the west coast of America, which was then preparing and collecting at Cadiz; and that he had given up the command of the ship Canton, wherein he came to Cadiz from South America, and sent her home to New York, in order to take charge himself of the Dick as soon as arrived.

That, not long after, the said O'Sullivan received information of the seizure of the Dick by the American consul or agent at Buenos Ayres, Mr. Forbes, and of her being sent to the United States for adjudication, whereupon he took passage in the first vessel for New York, for the purpose, as this deponent understood, of recovering her, and prosecuting, as soon as possible, the voyage contemplated.

That this deponent has no doubt, from his knowledge of the circumstances stated, and others, that the said O'Sullivan sustained very heavy damages through the non-arrival of the Dick at Cadiz, with her cargo from Buenos Ayres, in regard both to that cargo and the one he had engaged to take out from thence; but of the particular amount it is out of his power to make an estimate.

That this deponent was well acquainted with the said O'Sullivan, and his general character, and believes he was distinguished for uncommon abilities and enterprise in the line of his profession and pursuits, and for correctness of conduct in his ordinary dealings and transactions.

GEORGE COGGESHALL.

Sworn this 14th day of December, 1832, before me,

SAMUEL R. BETTS,

Judge of the United States for the Southern District of New York.

No. 19.

DISTRICT OF COLUMBIA, }
Washington City, } ss.

Michael Hogan, esq., being duly sworn, deposeth as follows: That, in the year 1821, he arrived at Valparaiso with an appointment as commercial agent of the United States for the several ports of Chili, and commenced, on the 15th of July that year, the consular duties; that, early in the year 1824, he received from this Government a commission as consul for the above district, bearing date the 3d of March, 1823, the duties of which he personally performed till May, 1831, as he does now by deputy.

That, in the year 1822, he became acquainted with Captain John O'Sullivan, master and supercargo of the ship *Canton*, owned by the firm of Le Roy, Bayard, & Co., of New York, on a trading voyage to the southwest coast of America, and from dealings and transactions with said O'Sullivan, as well as from the report of others who had dealings with him, he, the deponent, has good reason to consider him a man of fair character, and also of uncommon abilities in the line of his profession and pursuits.

That, by an order from said O'Sullivan, he supplied to a brig called *Dick*, (Heron, master) which touched at Valparaiso on the first day of January, 1823, as per his day book, sundry articles of supplies, consisting of cordage, provisions, ship chandlery, firewood, &c., to enable him to proceed on her voyage round to Rio Janeiro; that, by said order, the amount of these supplies were to be charged to account of Messrs. Le Roy, Bayard, & Co., which was done, the provisions and cordage being their property left with me on consignment by said O'Sullivan, when the *Canton* was at Valparaiso in 1822, for account of that house.

That, previous to the arrival of said brig *Dick* at Valparaiso, the deponent never knew nor heard any thing of her directly or indirectly. He is of opinion that, if any suspicion attached to her character, or to the disadvantage of her owners or navigators, he would have heard of it; and, as consul, it would be his duty, from which he never shrunk, as it was his inclination, in order to protect the fair trader and the credit of our flag, to investigate, and, if found in error, to denationalize her, by sending her false papers, with explanations touching them, to our Government, as he did those of many brigs and ships illegally covered by the flag of the United States on that coast.

MICHAEL HOGAN.

City of Washington, District of Columbia.

Subscribed and sworn to before me, this 25th June, 1832.

WM. HEWITT, J. P.

No. 20.

DISTRICT OF COLUMBIA, ss.

Platt H. Crosby, of the city of New York, attorney at law, being duly sworn, doth depose and say that he was in Peru in the year 1822, and subsequently; and that he recollects the arrival in Callao, the port of Lima, of the brig *Dick*, of Baltimore, which was some time in the said year 1822; that an individual by the name of Béla was reputed to be the owner of the said vessel; that said vessel afterwards proceeded down the coast to Guaya-

quail, as was understood by this deponent, where she arrived, and was sold by the said Béla to John O'Sullivan, then master of the ship Canton, of New York; that deponent does not positively know this fact, but was so informed at the time and believes. He was further informed and believes, that the said vessel took in a cargo at Guayaquil, and was despatched by the said O'Sullivan as owner, first to the intermediate ports of Peru, and subsequently round Cape Horn, to Rio de Janeiro.

And this deponent further saith, that he has since heard that said brig proceeded afterwards to Buenos Ayres, where her papers were taken from her by the late John M. Forbes, esq., then commercial agent of the United States at that place; and on the ground principally, as deponent has been informed, that the said vessel was a piratical vessel. But this deponent avers that he never heard, on the coast of the Pacific, any charge against said vessel as being of that character; and does not believe there was any foundation for such a charge. And deponent further saith, that he has seen a paper headed "police notice," and issued in Buenos Ayres, in which said brig, together with the Belgrano and Colonel (General) Brown, are represented as being piratical vessels, and under Spanish colors; that deponent was in Peru at the time to which this notice refers, and he heard no such rumor there with respect to the General Brown, any more than to the Dick; that it is true the crew of the Belgrano ran away with the vessel from the port of Callao, and proceeded, as was understood, directly to the Sandwich Islands, where they abandoned said vessel; that deponent never heard that they cruised as a pirate, or hoisted Spanish colors, except by the police notice above mentioned.

And deponent further saith, that, on the Dick's leaving Callao for Guayaquil, George Coggeshall, of Brooklyn, New York, went in her as master, as deponent believes; and that, on her sale to O'Sullivan, in Guayaquil, the command of her was transferred to John E. Heron, formerly, as deponent believes, a midshipman in the United States' service.

PLATT H. CROSBY.

Subscribed and sworn to before me, a justice of the peace in and for the county of Washington, in the District of Columbia, this 28th March, 1832.

D. A. HALL, J. P.